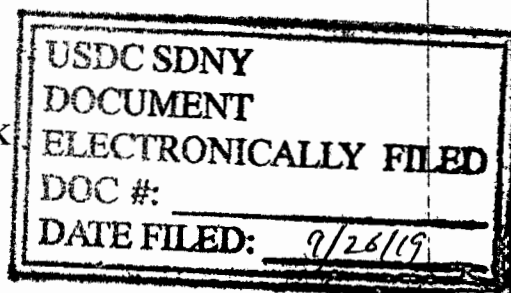


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



NICHOLE DANIELS-FEASEL, *et al.*,

Plaintiffs,

v.

FOREST LABORATORIES INC., *et al.*,

Defendants.

Case No. 1:17-cv-4188 (LTS) (JLC)

~~PROPOSED~~ AMENDED SCHEDULING ORDER

Pending before the Court is the parties' Fourth Joint Motion to Amend the Scheduling Order, which requests that unexpired deadlines in the Scheduling Order (Doc. No. 67, as corrected by Doc. No. 71) be adjusted, a summary judgment motion briefing schedule be set, and that all other provisions and deadlines set forth therein be unchanged. Having reviewed the joint motion, the status of the cases, and the procedures for remaining discovery to be completed,

**IT IS HEREBY ORDERED THAT:**

- (1) The Scheduling order entered April 1, 2019 (Doc. No. 67, corrected by Doc. No. 71), is hereby modified: (a) to adjust all unexpired deadlines as set forth below; and (b) to set a schedule for summary judgment motions related to the Court's ruling on the pending Omnibus *Daubert* Motion to Exclude Plaintiffs' Expert Testimony ("Omnibus *Daubert* Motion") (Doc. No. 79); and
- (2) All other provisions and deadlines set forth in Doc. No. 35 are unchanged at this time.

**1. Briefing Schedule for A Summary Judgment Motion Related to Ruling On Omnibus *Daubert* Motion**

Opening Brief: **30 days after Order on Omnibus *Daubert* Motion**  
Opposition Brief: **60 days after Order on Omnibus *Daubert* Motion**  
Reply Brief: **75 days after Order on Omnibus *Daubert* Motion**

**2. Amended Deadlines**

In this Section, the “Relevant Order” is either the Order on the Summary Judgment Motion described in Paragraph 1 above or the Order on the Omnibus *Daubert* Motion (if no summary judgment motion is filed):

**(a) The names of non-expert witnesses expected at this time to be deposed and either specific dates or a timetable when depositions will take place**

No later than **150 days after the Relevant Order**, Defendants may take up to three depositions for each of the mother and minor Plaintiffs (e.g., the mother Plaintiff, a prescriber, and a treater).

No later than **150 days after the Relevant Order**, Plaintiffs shall provide notice to Defendants, and Defendants shall provide notice to Plaintiffs, of one set of mother-minor Plaintiffs for further non-expert discovery (the “two trial pick cases”). The voluntary dismissal of any trial pick cases by Plaintiffs may result in an appropriate action to remedy any prejudice to Defendants that may have occurred.

Any other non-expert depositions in connection with the two trial pick cases to be completed no later than the close of fact discovery on **390 days after the Relevant Order**.

Any other non-expert depositions (including those for whom a Fed. R. Civ. P. 26 report would not be required) in connection with the non-trial pick cases shall be deferred and stayed as of **151 days after the Relevant Order**, until further order of the Court.

**(b) A date by which all non-expert discovery shall be completed**

**390 days after the Relevant Order**

**(c) Dates by which the disclosures of the identities and reports of experts required by Rule 26(a)(2) will be made**

**Case-Specific Experts:**

- Plaintiffs’ Opening Expert Reports: **215 days after the Relevant Order**
- Defendants’ Opening Expert Reports: **275 days after the Relevant Order**

- Plaintiffs' Rebuttal Expert Reports: **310 days after the Relevant Order** (unless notice is provided that no rebuttal report(s) shall be submitted in response to a given defense expert)
- Expert Depositions: to begin after service of rebuttal reports and to be completed no later than **400 days after the Relevant Order**, with depositions of Plaintiffs' experts to precede Defendants' experts, and Defendants' experts to precede any rebuttal expert not disclosed in Plaintiffs' opening disclosure

*Daubert* motions:

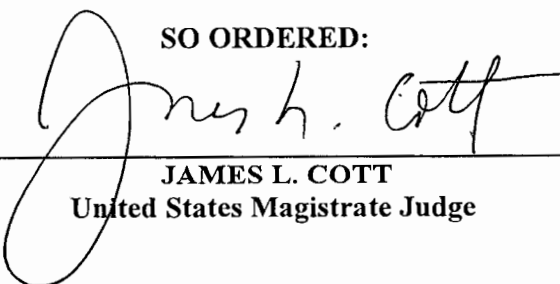
- Opening Briefs: **425 days after the Relevant Order**
- Opposition Briefs: **455 days after the Relevant Order**
- Reply Briefs: **485 days after the Relevant Order**
- *Daubert* hearing: in the Court's discretion and at the Court's convenience
- At the time the opening *Daubert* brief is filed, the parties should submit a joint letter-motion directed to Judge Swain requesting that she schedule a hearing and estimating the amount of time that will be required for the hearing.

(d) **The date by which depositions of experts shall be completed**

See § 2(c), above.

Dated: SEPTEMBER 26, 2019

SO ORDERED:



A handwritten signature in black ink, appearing to read "James L. Cott", is written over a horizontal line. Below the line, the name "JAMES L. COTT" and title "United States Magistrate Judge" are printed.

JAMES L. COTT  
United States Magistrate Judge